

ZONING BOARD OF APPEALS

March 26, 2007

MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, March 26, 2007, at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The work session was opened by Vincent Cestone, Chairman, at 7:30 p.m.

PRESENT:	Vincent Cestone	-	Chairman
	Lenny Lim	-	Member
	Bill Flaherty	-	Member
	Robert Dee	-	Member
	Adam Rodd	-	Counsel
ABSENT:	Paula Clair	-	Member

Vincent Cestone - Just a little bit of house keeping. We received a letter from Snyder and Snyder in reference to the Weinpahl application and we received it after the close of the public hearing. I am instructing the board to ignore this letter because it was after the public hearing. Okay. First item on the agenda is Tyler Gagnon. Hi.

Mike Carr - Hi. I'm Mike Carr. I am here on behalf of the applicant Tyler Gagnon.

Vincent Cestone - Is that how he pronounces it?

Mike Carr - Yes.

Vincent Cestone - Just explain what the issue is to us

Mike Carr - Okay

Vincent Cestone - And then explain what you are trying to do

Mike Carr - Okay. The issue is the applicant wishes to

Bill Flaherty - Can you turn that around? Thank you.

Lenny Lim - There you go

Mike Carr - The applicant wishes to improve his property and residence on his lot. The majority of the residence is in the 40 foot front setback of the lot. So any changes to that would require a variance. He is seeking to get a variance to make this section of the building taller, rebuild the center section to the same height and to add a foundation under the left most section

Vincent Cestone - Are you staying in the footprint of the current building

Mike Carr - Exact same footprint. We are as the application indicates adding a deck off the back

Vincent Cestone - But that's not an issue

Mike Carr - In addition we are adding a front stoop as shown in the drawing that is in the setback.

Vincent Cestone - Was there a stoop there to begin with?

Mike Carr - No there is nothing there. There is a front deck. We are just going to rebuild that

Lenny Lim - How did they get in and out of the house

Mike Carr - On the deck

Lenny Lim - On the deck. And this is a pre-existing nonconforming?

Mike Carr - Yes

Vincent Cestone - And the deck is not getting any bigger

Mike Carr - No it is not getting any bigger

Vincent Cestone - And what is the, at its highest point what is the height of the house

Mike Carr - It is currently, this is the front elevation of the house now. It is currently about 19 feet plus or minus. It is a little hard to get an exact, you can't get the tape measure to stay still. It is going to be 26 feet.

Vincent Cestone - And that is from the top of the foundation to the peak of the roof?

Mike Carr - That is from grade to the peak of the roof

Vincent Cestone - Okay. Explain a little bit about the neighborhood. Are there

neighbors on both sides?

Mike Carr - It is a residential neighborhood. The majority of the houses along Indian Brook Road or built prior to zoning and are very close to the road. So it is within keeping with the neighborhood, it is not unique on the road to be close to the road. Most of the houses are old style colonials and the applicant intends to build a colonial style house. Right now the existing house is sort of a ramshackle old barn look on the right two sections and the left is a contemporary

Vincent Cestone - And how far are they from the property on both sides

Mike Carr - He has neighbors within 100 feet

Vincent Cestone - Okay

Mike Carr - This is the house here. This is Indian Brook Road. There is another house right here; I would say that is about 100 feet away. There is also another house back in here probably about 150 feet away

Vincent Cestone - Nothing on the other side

Mike Carr - There is a road coming up along here and there is a house here and two more back up here. But they are, I would say this one is like over 200 feet and these two are more than that.

Vincent Cestone - Any questions from the board

Lenny Lim - Can you show me which side is going to be elevated again

Mike Carr - Excuse me sir?

Lenny Lim - Which side is being elevated to two stories

Mike Carr - Okay.

Lenny Lim - Take that down and show me, yeah.

Mike Carr - Here is the front view here. This section right here is one and a half stories originally and it is going to be two stories now. This is now going to be the tallest portion of the building at 26 feet from grade. The center section here is one story and it will remain one story. The left most section was actually taller than I have shown it here because the roof used to extend up in a contemporary fashion. He is going to start the roof back down to try and give a little more harmony to the rest of the structure. So that is going to get shorter.

Lenny Lim - That's why I am a little confused on the roof angles on all this. Is

this going to match the height on the one on the right side, the roof height?

Mike Carr - No. The one on the right side is by itself

Lenny Lim - How high is this one going to go to? How high is this going to eventually be that side?

Mike Carr - That side is going to be down to 17 feet. It went from about 19 feet down to 17

Lenny Lim – okay

Vincent Cestone - Any other questions

Bill Flaherty - Are you going to build a complete cellar underneath the house

Mike Carr - Yes

Bill Flaherty - You are not going to raise the structure as a result of that

Mike Carr - These sections are going to be raised

Bill Flaherty - How many feet are you going to raise the structure as a result of building

Mike Carr - I am misinterpreting, went you said raised I thought you meant knock down. We are going to knock them down.

Bill Flaherty - You are not going to knock anything down

Mike Carr - No. We are going, these to sections here as they exist now are unrepairable

Bill Flaherty - I was down, I visited the property so I am familiar with it and I think that that building was built prior to the time zoning came into effect in our Town. The contemporary structure that is in line with that, that was probably _____

Mike Carr - That is going to be untouched with the exception of a foundation we are going to put underneath it. So it is going to be somewhat lifted off its supporting piers, excavate underneath and foundation

Bill Flaherty - Mr. Gagnon bought this in 2005

Mike Carr - I believe 2006 but

Bill Flaherty - Okay 2006. Now the building is nonconforming at the time Mr.

Gagnon purchased it. And at that time when he _____ transpired that wasn't picked up apparently by either the lending institution, if there is a mortgage on this, I assume that it was probably a cash transaction, and therefore and did not have a title search

Mike Carr - I couldn't comment on that

Bill Flaherty - Maybe Mr. Gagnon

Tyler Gagnon - It's mortgaged

Bill Flaherty - Pardon

Tyler Gagnon - It's mortgaged.

Bill Flaherty - It is mortgaged

Tyler Gagnon - Oh absolutely. I've got all the COs and stuff.

Bill Flaherty - Oh okay. I was going through the file and I found that the structure was nonconforming at the time you purchased it

Tyler Gagnon - No I had it all worked out downstairs before I purchased it. I couldn't get a mortgage

Bill Flaherty - Well I know you couldn't get a mortgage

Tyler Gagnon - No no no we got a mortgage

Mike Carr - The CO was included in the application

Bill Flaherty - I saw that. Well from what I see I know that it is pretty well deteriorated and the interior from looking in the windows. And the exterior certainly needs to be _____. That is a pretty nice section down there. It's an old old section that has been around this town for many many years and it has an old colonial across the street from that that is probably about 125 years old. I think it would be an added position to go more aesthetic. You are asking for a significant amount of variance.

Vincent Cestone - He is going straight up. Only the portico in the front

Mike Carr - Yes the stoop is the addition

Bill Flaherty - Yeah

Vincent Cestone - Any more questions from the board?

Lenny Lim - What do you mean it was all worked out downstairs? I don't quite understand what that meant

Tyler Gagnon - We had all the COs. Before I purchased it I wanted to make sure I had all the proper COs and everything. It was an old lady who owned it and her husband had passed away, and there was an open part of one of the permits was open and they said I just had to bring the electrical up to date blah blah blah. We had Tony Ricci do the work. Brought down to Tom Monroe's thing he said its fine everything checks out.

Lenny Lim - Okay

Robert Dee - Just tell me again what portion you are going to tear down

Mike Carr - The, this section here and this section here as they stand now will be torn down

Robert Dee - Okay

Vincent Cestone - And a new foundation will be put in place

Mike Carr - A new foundation under the entire residence

Lenny Lim - Are you going to raise it up to put the foundation underneath

Mike Carr – that includes 3 feet of foundation and framing. We want to make it so that we are going to maintain the first floor level of the contemporary section and that first floor level will continue to the rest of the structure.

Lenny Lim - So the total height will be 26. Okay

Bill Flaherty - No one is living in that structure now is that correct? It's vacant?

Tyler Gagnon - What's that? At the moment I am not in it because

Bill Flaherty - You are not living in it

Tyler Gagnon - No. I keep the heat on, the water, utilities running

Bill Flaherty - Are you going to use that for your main residence after it is renovated?

Tyler Gagnon - It is going to take some time to get it to that point but that is the intention of course. It is a beautiful property. Have you seen it back there? It has a beautiful natural ravine, wooded and stuff

Robert Dee - It could be torn down too, it wouldn't be a bad thing either.

Mike Carr - It looks better now than it did three months ago. I live on the road and have been driving by it for years

Adam Rodd - I have a quick question with respect to the set backs and I see 17.4 and 21.4 and 23.9. Is that feet and inches?

Mike Carr - No. That is .9 feet, your comment was made last time and I said I would convert all of it into feet and inches if you would like it. But that is 17.4 feet. Surveyors generally do things in whole fractions

Vincent Cestone - That's not universal though. We had it the other way

Mike Carr - I converted it over for you.

Adam Rodd - Do you have a copy for us

Mike Carr - Yes I do.

Adam Rodd - Okay

Vincent Cestone - Do you have anything else you want to ask?

Mike Carr - All this was updated as of 3/20 and all the numbers in there have been converted over

Adam Rodd - And just one other thing. You mentioned the stoop is going to be 21.4 feet away from the front property line. How much more of an encroachment on the front yard is that than what currently exists?

Mike Carr - What currently exists is 23 feet 11 inches from the property line to the house so the stoop is extending out about 3 feet more.

Adam Rodd – Okay. And how high is that stoop? Approximately

Mike Carr - Approximately 3 feet high

Adam Rodd - Okay

Vincent Cestone - Any more questions from the board? Any comments from the audience? Introduce yourself sir

Anthony Stefano - My name is Anthony Stefano. I live on 25 Pine Ridge which is the last house on the right of way and I am thrilled that this house is being

renovated. It has been an eyesore really on Indian Brook Road for over 20 years. I am thrilled that someone is taking over the property and is going to rebuild it.

Tyler Gagnon - Thank you

Vincent Cestone - Any one else wish to speak? I would entertain a motion to close the public hearing

Bill Flaherty - I so move

Vincent Cestone - I'll second. All in favor?

All Board Members - Aye

Vincent Cestone - I make a motion for a straw poll. Do I have a second?

Bill Flaherty - I'll second.

Vincent Cestone - All in favor

All Board Members - Aye

Vincent Cestone - Bill?

Bill Flaherty - I vote to approve

Lenny Lim - I vote for it

Robert Dee - I vote to approve

Vincent Cestone - And so do I

Kim Shewmaker – Resolution?

Vincent Cestone - Adam on the resolution when you know when you define the setbacks say that the main house is 23 feet whatever and the entrance is 21 feet. Or whatever it is so that the building department knows that the house is not moving any farther forward it is only the entrance way

Adam Rodd - Stoop

Lenny Lim - And the height can't exceed 26 feet

Vincent Cestone - And make record that max at it's highest point is 26 feet or whatever it is from the

Kim Shewmaker - When do you want to put it on for resolution?

Vincent Cestone - Excuse me

Kim Shewmaker - When do you want to put it on for resolution

Vincent Cestone - When Adam is ready

Kim Shewmaker - I just want to know when to put it on the calendar

Adam Rodd - I'll give you a call

Vincent Cestone - Okay next item on the agenda is another public hearing for Donald Henny.

Donald Henny - Yes

Vincent Cestone - Can you introduce yourself

Donald Henny - Donald Henny

Vincent Cestone - Okay a lot of times someone else is representing the applicant

Donald Henny - Oh really okay well I don't have enough money to have someone working on it

Vincent Cestone - A lot of times we get the architect

Donald Henny – Oh. I was the architect before, now it is a variance.

Vincent Cestone - Okay. So explain to us what the issue is. I saw

Donald Henny - This house was built 180 years ago. And it still has the original ___ beams and it is built on a rock actually. So that is the foundation. And it took me 20 years to get it where it is and now what we want to do is we want to raise a section of the roof to put, actually it was built on a rock so it was the first split level. The original house was a salt box house and then about 1910 they built a section of the house 2 feet higher

Vincent Cestone - You don't get any water

Donald Henny - No. Actually it is funny a stream used to run under the house and they dropped a hand pump and a line down to pump water before the turn of the century. And now the stream actually still runs under the house so any water

that is under the house kind of runs out. It is under the concrete and I have a sump pump in case.

Vincent Cestone - So you want to put on an addition. You are not expanding

Donald Henny - Not addition. Just raising the roof

Vincent Cestone - But you are not changing the footprint

Donald Henny - No

Lenny Lim - How old is the house

Donald Henny - 180 years old

Lenny Lim - I am having a hard time reading the numbers here on my maps

Donald Henny - I know. I couldn't print up 7 copies of the blueprints. I couldn't afford it.

Lenny Lim - I can't read numbers here

Donald Henny - Okay

Lenny Lim - This is not acceptable

Donald Henny - How about the big one you have there

Lenny Lim - The big one doesn't have numbers from here to the property lines either. That's what I am saying.

Donald Henny - There is two sheets.

Robert Dee - What you need is, see this here that is stamped,

Donald Henny - There is a survey where you can see that

Lenny Lim - That's what we need. I can't read anything

Donald Henny - I'm sorry. That's the best I could do

Lenny Lim - It may not be good enough. You can make copies of this can't you?

Donald Henny - I couldn't afford it. I didn't really know how to go about it.

Vincent Cestone - Kinkos

Donald Henny - Kinkos wouldn't do it

Vincent Cestone - Really?

Donald Henny - They wouldn't do it

Vincent Cestone - The Kinkos near me at work, you bring it in and they do it

Donald Henny - They wouldn't do it.

Vincent Cestone - But the house itself is not changing

Robert Dee - There is a place on route 9 that does blueprints

Lenny Lim - He is not, the sunroom has nothing to do with it. You just want to raise the main building up

Donald Henny - That's correct. Just part of the main building.

Vincent Cestone - This section here?

Donald Henny - Let me see that. I'm sorry. This section here.

Vincent Cestone - And you are just, tell me what you are doing

Donald Henny - It's a, this part of the building now is a story and a half. And what we want to do is make it 2 stories. So we want to raise it approximately 4 ½ feet

Bill Flaherty - What is the overall height of the building when you are finished

Donald Henny - It is about 18 feet now. So 4 ½ feet more would be about 23 to 24 feet

Vincent Cestone - We need exact measurements because we have to put it in the resolution.

Donald Henny - I don't believe it is on the blue print. Let me see if I can do it in my head.

Bill Flaherty - Well the 40 feet height is the Zoning

Vincent Cestone - Right but since he is nonconforming that doesn't apply anymore

Donald Henny - The pitch of the roof is 6 ½ so it would be

Vincent Cestone - Do you have a set of construction plans or have they been drawn yet?

Donald Henny - All I have is this. These are the plans I have that the architect drew. I would assume that these are construction plans

Vincent Cestone - No those are not construction plans.

Donald Henny - No

Vincent Cestone - Construction plans basically, there is sections in everything.

Donald Henny - Wait a second. Can I come up and look at that with you so I can understand, I guess not.

Vincent Cestone - This is the height of your foundation out of the ground. It is 4 feet out of the ground on this side

Donald Henny - Okay, this house like I said is built on a rock. So the foundation is the rock, the stone. And it sits right on it. I replaced the stilts with treated lumber. This is the living room, this is the kitchen door. This line here, I don't believe is the grade. I don't know what this is.

Vincent Cestone - Mr. Henny?

Donald Henny - Yes

Vincent Cestone - What I suggest you do, because you are going to have to talk to your architect. The building department wouldn't accept those plans.

Donald Henny - Really

Vincent Cestone - I don't think so.

Donald Henny - They didn't tell me that when I showed them. And I asked them exactly what I needed

Vincent Cestone - I am surprised

Donald Henny - And I brought these in and I showed them to them

Lenny Lim - None of us can read any numbers off of these

Donald Henny - I know. I know.

Vincent Cestone - So you have retained an architect to draw these plans

Donald Henny - That's correct

Vincent Cestone - What I suggest you do, we are not going to act on this tonight. But at our next meeting which is in two weeks, just bring in the actual building plans

Donald Henny - They do you want them with the 2x4 set in, I mean how detailed do you want them

Vincent Cestone - I don't want the interior details. I want the measurements of floors, peaks

Donald Henny - Can I do that myself. Can I put those dimensions in

Vincent Cestone - No it has to be the engineer. It has to be stamped. It has to be approved by the engineer

Donald Henny - Okay

Vincent Cestone - That's very close, he just has to make some adjustments

Donald Henny - Okay if you can just explain to me what he has to do and then I can explain it to him.

Vincent Cestone - Okay. We need, correct me if I miss anything, we need heights to the peak

Donald Henny - Okay

Vincent Cestone - Because this is not clear

Donald Henny - I understand. It says 6.8 but

Lenny Lim - We need both sides because one side down slopes, so we actually need measurements for both sides, the height

Vincent Cestone - Because when we do the resolution, we tell the building department the house maximum height from grade on to what ever side we pick will be and if it is off by an inch, you are back here again

Donald Henny - Okay

Vincent Cestone - And it is one of those things what we are trying to do is

protect from having you make 40 trips back and forth. If we do it right the first time, you will be okay

Donald Henny - Okay. That sounds good to me. Now this 6.8 doesn't come to the peak so it is probably to the peak but wasn't drawn that way

Vincent Cestone - We need

Donald Henny - I understand. It has to be precise

Lenny Lim - And we have to be able to read the heights and all the measurements

Donald Henny - Okay

Lenny Lim - Also, one question. What is a tent structure?

Donald Henny - A tent structure, it is, I have a lot of building supplies that I keep in the front of the house. So in order to keep the neighbors from getting upset about it, I got a big kind of like a temporary garage thing and I put them in it

Lenny Lim - Plastic

Donald Henny - No it's not plastic. It's like a tarp like material

Lenny Lim - Is that temporary

Donald Henny - Oh yeah just to keep the snow and rain off it and it looks like it is organized

Bill Flaherty - It is nonconforming

Lenny Lim - On this plan here you have 12.2 feet, that's what we need exact measurements, readable

Robert Dee - This is tough to read

Donald Henny - I know. I thought maybe you all read that

Robert Dee - No

Lenny Lim - This is the main copy for the record but we need our own individual copies so when we make site visits we can measure and look at things

Donald Henny - okay

Adam Rodd - I would suggest that the board might consider leaving this open until the next meeting. Just play it safe. I mean god forbid they come in with measurements that turns out he needs a variance _____ which is something I think we might need the actual measurements for. In other words if he comes in and says oh by the way the very top of my roof is going to be 45 feet, I mean I don't think that is going to happen

Donald Henny - I understand. When I first started doing this building, I made a pencil sketch and the building inspector said okay and I did it. And it was 16 inches on center

Robert Dee - How many years ago?

Donald Henny - 25

Robert Dee - things have changed

Donald Henny - I know. I am trying. I appreciate it. And I am standing up in front of people I don't do that.

Lenny Lim - It seems the board does not have any complaints about what you are asking for

Robert Dee - We just want to be able to read it

Vincent Cestone - We want to cross our t's and dot our l's

Donald Henny - So you want me to get more copies of this so you can

Vincent Cestone - I don't particularly care for it because I am very happy with what we have because we have a good copy.

Lenny Lim - But it is all these measurement lines here

Donald Henny - I understand

Vincent Cestone - But we have this measurement here

Lenny Lim - I see what you are saying but it is not the height of the building

Vincent Cestone - This one we can use

Donald Henny - And as far as this goes, you want me to get specific lines for the peak and the actual

Lenny Lim - North side, south side, the whole 9 yards

Donald Henny - From the grade

Vincent Cestone - From the grade and also the height of the foundation

Donald Henny - There is no foundation

Vincent Cestone - The rock. So when we do the resolution we can instruct the attorney to write it that the maximum, just like the people before

Donald Henny - I understand. I heard. I heard. I realized what you needed after I heard the first presentation.

Vincent Cestone - So what we are going to do is we are going to keep your public hearing open

Donald Henny - Okay

Vincent Cestone - Until our next meeting which will be April 16

Kim Shewmaker - April 9th, isn't that the second week?

Vincent Cestone - April 1st

Kim Shewmaker - April 2nd is the first Monday and April 9th is the second Monday

Vincent Cestone - April 9th is the second one? Okay. April 9th

Lenny Lim - That's right it's 2 and 4 now

Kim Shewmaker - Can I have that copy back for the file?

Bill Flaherty - It is too bad that our building inspector hadn't explained to you what we need here

Donald Henny - Well it was

Bill Flaherty - It's his job

Donald Henny - I don't know if he was the official building inspector or his assistant. But I just showed him the packet that I had and I said is this, I mean because I had to make 7 copies of it, so I said is this going to be what I need. And he said yes

Bill Flaherty - Well both of our building inspectors and they know the code and

what we need when you come before us so that we can expedite the process. So it is unfortunate that didn't take place

Donald Henny - I'll come back in 2 weeks and get another dinner

Vincent Cestone - Is there anybody in the audience that wishes to speak on this?

Harris Kimball - My name is Harris Kimball and I live right across the street from Don Henny. I lived in this building from 1957 to 1960 and I am telling you this really needs a bathroom upstairs. Bed pans are really out of _____

Lenny Lim - This is what you need on the record though.

Donald Henny - Really? Okay.

Lenny Lim - You need a bathroom upstairs

Vincent Cestone - So you are on for April 9th. Get that information to Kim, you just bring it down to Town Hall

Donald Henny - I'll just bring a set of plans with that on it with a stamp, that's all you need

Vincent Cestone - Yes

Donald Henny - Thank you very much. I appreciate it

Lenny Lim - Remember if you can read it we can read it.

Donald Henny - Good night

Vincent Cestone - Okay I just want to do a review for completeness for Hugh James Rossouw. Is the applicant here? I didn't see anything wrong with it

Adam Rodd - I didn't see it, COs, unless you have it?

Kim Shewmaker - no

Robert Dee - The application has 374 Sprout Brook but the deed says 282 Sprout Brook Road

Lenny Lim - He brought up the deed has a different address than the application

Kim Shewmaker - My address changed too from my deed because 911 came in and all the addresses changed

Lenny Lim - Oh that's right. When 911 came in all the addresses changed

Adam Rodd - I didn't see any C of O's

Vincent Cestone - Okay

Lenny Lim - Incomplete

Vincent Cestone – okay

Adam Rodd - Maybe he never got a CO, that's possible too. I imagine the building department can verify if there is a CO or not for this address. Either there is or there isn't

Vincent Cestone - That's right. So it will be on for completeness again for the 9th. Review of minutes of March 5th. Does anybody have any changes or corrections?

Bill Flaherty - I have none

Robert Dee - I don't have any

Vincent Cestone - I will make a motion to accept the minutes as submitted

Bill Flaherty - I'll so move

Vincent Cestone - I'll second. All in favor?

All Board Members - Aye

Vincent Cestone - With that I make a motion to go into executive session to discuss with our attorney the details of an application

Bill Flaherty - I second

Vincent Cestone - All in favor

All Board Members – aye

(Board Members and Attorney in Executive Session)

Vincent Cestone - The appeal of David Weinpahl, I am going to make a motion that we support the application of Weinpahl in that moving of the nonconforming structures into an even more nonconforming area is a violation of 175.41 and that triggers site plan approval by the planning board. And I make a motion that

move to send this to the planning board. Do I have a second?

Bill Flaherty - I'll second

Vincent Cestone - All those in favor?

All Board Members - Aye

Vincent Cestone - With that do we have any old business? Just a reminder April 25th you don't have to be here

Kim Shewmaker - What's April 25th? That's a Wednesday

Vincent Cestone - We have a meeting with the Town Board and you don't have to be here

Kim Shewmaker - It's a Wednesday

Vincent Cestone - We are meeting with the Town Board

Kim Shewmaker - Oh I was wondering what you were talking about

Lenny Lim - We are meeting to discuss Cooper

Kim Shewmaker - Gotcha

Vincent Cestone - Motion to adjourn

Bill Flaherty - Second

Vincent Cestone - All in favor

All Board Members - aye

NOTE: These Minutes were prepared for the Zoning Board of Appeals and are subject to review, comment, emendation and approval thereupon.

DATE APPROVED: 4/9/07

Respectfully submitted,

Kim Shewmaker
Secretary